

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:
Taberna Capital Management, LLC and Larry	:
Lattig, Litigation Trustee for the First Magnus	:
Litigation Trust, as Successor in Interest to	:
Taberna Capital Management, LLC and The Bank	:
of New York Mellon Trust Company, N.A.,	:
Solely in its Capacity as Trustee under the	:
Indenture and Property Trustee for the First	:
Magnus TPS Trust,	No. 08-cv-11355 (DLC)
 Plaintiffs,	 APPENDIX IN SUPPORT OF PLAINTIFFS'
 -against-	 OPPOSITION TO DEFENDANT'S MOTION
 Gurpreet S. Jaggi,	 TO PRECLUDE PLAINTIFFS' EXPERT
 Defendant.	 TESTIMONY AND REPORTS AND FOR
 -----X	 SANCTIONS

Taberna Capital Management, LLC (“Taberna”) and Larry Lattig, Litigation Trustee for the First Magnus Litigation Trust, as Successor in Interest to Taberna Capital Management, LLC (“Litigation Trustee”) and The Bank of New York Mellon Trust Company, N.A., Solely in its Capacity as Trustee under the Indenture and Property Trustee for the First Magnus TPS Trust (“BONY” and collectively with Taberna and Litigation Trustee, “Plaintiffs”) respectfully submit this Appendix in Support of Plaintiffs’ Opposition to Defendant’s Motion to Preclude Plaintiffs’ Expert Testimony and Reports and for Sanctions (“Appendix”). The Appendix contains the following materials:

Exhibit A	Declaration of Jamie R. Welton, dated Dec. 13, 2010
Exhibit No. 1.	Email dated September 23, 2010 from J. Welton to counsel regarding the availability of L. Morriss for his deposition

Exhibit No. 2.	Email dated September 23, 2010 from J. Welton to counsel regarding L. Morriss being in trial October 11 through October 22
Exhibit No. 3.	Email dated September 24, 2010 from T. Jackson to J. Welton regarding agreement to the expert depositions
Exhibit No. 4.	Email dated April 21, 2005 from G. Malis to J. Chopra regarding gt letter
Exhibit No. 5.	Expert report by J. Duross O'Bryan dated September 10, 2010 (served in the FMFC Insider Litigation)
Exhibit No. 6.	Expert report by J. Duross O'Bryan dated September 17, 2010
Exhibit No. 7.	Deposition Excerpts of Larry Morriss dated November 11, 2010
Exhibit No. 8.	Deposition Excerpts of J. Duross O'Bryan dated November 15, 2010
Exhibit No. 9.	Deposition Excerpts of James F. Smith, Ph.D. dated November 17, 2010 (in the FMFC Insider Litigation)
Exhibit No. 10.	Deposition Excerpts of Doug Lemke dated June 25, 2010
Exhibit No. 11.	Deposition Excerpts of Karl Young dated August 23, 2010 (in the FMFC Insider Litigation)
Exhibit No. 12.	Letter from D. Dwyer to C. Fornaris, copying G. Jaggi, dated July 31, 2006
Exhibit No. 13.	Excerpts from the Due Diligence Questionnaire dated July 17, 2006
Exhibit B	Declaration of L. Morriss' dated Nov. 10, 2010
Exhibit 1	Expert Report by L. Morriss dated July 30, 2010
Exhibit 2	Expert Report by L. Morriss dated July 30, 2010 (in the FMFC Insider Litigation)
Exhibit 3	Supplemental Report of L. Morriss dated November 4, 2010
Exhibit 4	Supplemental and Rebuttal Report of L. Morriss dated November 4, 2010 (in the FMFC Insider Litigation)

Executed this 13<sup>th</sup> day of December, 2010.

By:/s/ Jamie R. Welton

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2010, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system (excluding exhibits), which will send notification of such filing to all counsel of record, and caused an electronic copy with exhibits to be served via U.S. mail on all counsel of record.

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/s/Jamie R. Welton  
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